

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OKLAHOMA
200 N.W. 4TH STREET
OKLAHOMA CITY, OKLAHOMA 73102

PHILLIP JAMES ROBERSON, SR.
1334 AVODALE STREET
TOLEDO, OHIO 43607
PLAINTIFF
V

THE MUSKOGEE CREEK TRIBAL COUNCIL
1000 OK-56
OKMULGEE, OKLAHOMA 74447

NATIONAL INDIAN GAMING COMMISSION
HEADQUARTERS
90 K STREET, STE. 2100
WASHINGTON D.C. 20002

BUREAU OF INDIAN AFFAIRS
1849 C. STREET, N.W.
WASHINGTON D.C. 20240

STATE OF OKLAHOMA
2300 NORTH LINCOLN BOULEVARD
OKLAHOMA CITY, OKLAHOMA 73105
DEFENDANTS

FILED

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CARMELITA REEDER SHINN, CLERK
U.S. DIST. COURT, WESTERN DIST. OKLA.
BY RS DEPUTY

Case No. CIV-20-113-R

Now comes Plaintiff in the above entitled action in a response to a violation of the Fourteenth Amendment, Section 1, of the Constitution of the United States, to wit;

"All persons born or naturalized in the United States and subject to the jurisdiction thereof, are Citizens of the United States and of the State whereof they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States, nor shall any State deprive any person of life, liberty, or property, without due process of law, nor deny any person within its jurisdiction the equal protection of the law."

Plaintiff alleges that Defendants did, with malice of forethought, deliberately deny African-Creeks, an identifiable group of Indians, without due process of law required by the Constitution, did deny a membership established before Columbus arrived on these shores, a membership that entitled African people to participate in the Cultural, Political, and Economic Life of the Muskogee Creek Nation, but at the same time did not deny membership to Euro-American Creeks, a second identifiable group of Indians, solely for the purpose of denying the stated group a share in the revenue of the six Casino's established on the Creek Reservation.

Plaintiff will present the Court with a brief historical account of African-Creeks in the Creek Nation to illustrate the events that led up their disenfranchisement.

According to Creek Oral tradition, a ship piloted by Africans, ran aground on the Shell Islands off the Alabama Coast many years before the arrival of Spanish Explorers. Fortunately, the African and Creeks embraced a Holistic Religion and World view that did not separate the Secular from the Sacred, including a reverence for Natural elements, Animal Spirits, and Deceased Ancestors. Furthermore, Cultural practices like 'Reciprocity' and 'redistribution of material goods' were common in both African and Creek Cultures. All the elements of the Creek and African Cultures that paralleled each other smoothed the transition from being strangers to being easily absorbed into Creek Culture. The survivors were adopted into the Tribal Nation and lived out their lives among the Indians, and left many descendants, identifiable by the coarse texture of their hair. These survivors were called "Estelveste-Black Warriors"

Hundreds of years later, the arrival of the Spaniards found a Communal People who lived in towns with inhabitants knit together in an intricate web of kinship that were Matrilineal Societies, much like Historical African ones, that charted descent from their Mother's Clan.

With the arrival of the Spanish, then the British, then the French, each staking out land claims as though the original inhabitants didn't matter, caused many conflicts. All the Europeans first used Indians as slaves, which significantly reduced Male Indian populations, then imported Africans, then Prisoners of European Wars, and finally, European Debtors shipped to the New World to work off their Debts as indentured slaves. That form of slavery was not permanent. It became permanent for Africans with the creation of the "White Supremacy Doctrine."

When Gregor Mendel, an Austrian Monk, discovered 'Color-Dominance' experimenting with flowers, that discovery changed slavery to a permanent condition. Europeans believed their very existence was at stake. When Europeans produced offspring with a member of a darker race, that offspring was always darker than its European parent. It was already happening at slave plantations where European Debtor women were having half-African babies. It had happened in other Nations but no one seemed to notice or care until Mendel's revelation. Europeans realized indiscriminate sex with people of color would eventually destroy the Caucasian race. This realization was the foundation of the White Supremacy Doctrine.

The laws of White Supremacy were aimed primarily at European women because any babies she bore for African men could not be enslaved under the law because it would expose the Doctrine as a farce, meaning European could be designated as inferior as well. Also, once a Debtor woman was free she could take her baby with her. Plus, it was not economical to have Debtor women laid up with pregnancy. Although Hollywood made movies where when free European women were pregnant for a slave, the slave and the baby was subsequently killed. That was a fallacy. In actual practice, when that happened, the woman was sent up North with her baby, and nothing happened to the male slave because he was an investment. Only after slavery were African men fair game for murder because they were no longer important as a monetary investment.

Before the American Revolution, and by the early part of the 17th Century, Runaway Slaves from British Colonies were making their way to the Spanish held Territory of Florida, because the Spaniards had issued a Proclamation offering Freedom to any Slave willing to convert to Catholicism. The Spaniards organized the fugitives into Military Settlements and provided them with land, tools, rations and weapons in exchange for their service in protecting the Colonies. However, many fugitive slaves did make into Creek Country.

Although the British offered substantial rewards to Indians for returning runaways, Indians did not always cooperate. They discovered runaways brought skills that made them valuable members of the Creek Community. Skills such as Blacksmithing, Carpentry, Gun and Trap repair, which lessened dependence on European trade goods. Perhaps the most important skill these new Africans brought were Cultural. Their ability to speak English as well as understand it and comprehend the nuances of European Cultural attitudes was a great aid to the Creeks. It is important here to identify these new arrivals by another name rather than the 'Estelvste', who had been completely absorbed, because they were adopted, but had not been in the Tribe long enough to be completely absorbed. I shall identify these new arrivals as African Creeks. As the contact with European Settlers increased, so did the role of African Creeks who had been recently adopted into the Creek Nation, play as Cultural Brokers before the Revolution.

The outbreak of the Revolutionary War between the English Colonies, newly coined as Americans, and the British Empire, gave Southern Indians their first opportunity to watch Europeans destroy each other. Since none of the Tribal Nations had a desire to prematurely participate in the complete attainment of those pleasing prospects, their general inclination was towards neutrality. However, the British wanted to use the Indians as allies, citing American ill conduct against them as a reason, and some Cherokees, who had suffered more from American ill treatment, and some Creeks were eventually engaged.

The years of the American Revolution marked a turning point in African and Creek relations and in the Slave System that was developing. The number of Runaway African living in Creek Country increased dramatically. Slaves from plantations in South Carolina, Georgia, and Florida fled to safety with the Indians. Florida no longer offered a refuge after the Treaty of Paris in 1763. The Spanish protection for Runaways was cut off and Indian lands became more attractive destinations.

Consequently, the need to keep those Runaways from being returned, Creeks created a system where slaves were kept on a basis of equality with Creek Kinship groups, which included Africans, Indians and European Runaways. Coupled with Runaway slaves of different races, the Creek Nation became increasingly multicultural. European names like Grayson, Perryman, McGillivray, Bernard, Roberson, and later variations in spelling would become common surnames for African-Creek relationships that prevented British slave owners from claiming those of African mixture.

Under the Creek system, called 'Kinship Slavery', where slaves provided their own upkeep and rendered their Patron a share of the Harvest or Butchering time. Creek Patron's provided a kinship link for their client slaves that allowed African, Indian and European runaways to be part of the community but still dependent on their Patron.

With the end of the Revolutionary War and a return to Peace, the expropriation of Indian lands became an official Government policy directed at the Five Civilized Tribes. Chief Dan George said they called them civilized because they were easy to sneak upon.

The arbitrary seizure of the Coosa Road by the United States Government was an action which the Creeks regarded as a further threat to their remaining land and liberty, and behind that action was a vast reservoir of ill will which had been accumulating from the time the United States had started a 'Civilization Program' among the Five Tribes. The Government had assigned Agent Benjamin Hawkins to implement the Plan. While the Program was more prevalent among the Lower Creek Towns, the opposition was much stronger among Upper Creek Towns, among whom Hawkins had fewer opportunities to exert any influence.

Twenty-nine of the Thirty-four Upper Creek Towns were among the most antagonistic, and their numbers increased and their virulence intensified with each American encroachment on their land and customs. The Upper Town opposition to the 'Civilization Program' now comprised the largest and most articulate portion of the Creek Nation. Consequently, the Creek War, in its beginning was a Civil War, having nothing to do with the Americans directly. The Lower Creeks, dominated by mixed blood Euro-American Creeks, embraced the Civilization Program and that was the problem. But the Governor's of Tennessee, Georgia, and the Mississippi Territory saw it as a chance to remove the Indians off the millions of acres they possessed. They reported to the War Department that they were concerned the Indians were restless and hostile and that only an invading Army could restore them to their proper serenity; it was the Gubernatorial custom in those States to take a gloomy view of Creek conduct. The unanimous declaration of the Creek National Council on October 30th, for peace with the United States, only confirmed the Governor's in their opinion of Creek duplicity. The War's cause was a long gathering dissatisfaction with the Civilization Program instituted by Hawkins and officially approved by the Lower Creek Council. Although tension between the Upper and Lower Town factions had been increasing by the imposition of the Death Penalty of 1812, all of which had been inflicted on the opposing Upper Town faction, War between them became inevitable after February 1812.

The Upper Town opposition to the Civilization Program, placed a stick, dyed Red, in the ground and declared that any who crossed over would be a member that would resist any further American encroachment. Many did not cross over, but thousands did. The leaders of this group, named "Red Sticks", were Ogilla Henaha, of Okfuskee, Hopiee Tustenugga, a Warrior of Tuskegee, Peter McQueen, Hasso Yahola, and the Tame King.

In July of 1812, The United States Government authorized the Governors of Georgia and Tennessee to raise fifteen-hundred men each and move them against the Creeks "as circumstances may direct, either separately or together". Subsequently, the War resulted in private and public benefits by the confiscation of the entire Creek Territory, and subsequent seizure of all 'Spanish Florida'. Americans believed, contrary to fact, that Creeks were rebelling because of British and Spanish intrigue. The United States enlisted the aid of the Choctaws and Chickasaws for a diversionary attack on a Creek Village at the Falls of the Black Warrior River. In the Winter of 1812, the Creek Red Sticks were threatened by forays from Georgia, Mississippi and an invasion from Tennessee. An attack by General Floyd reached the Flint Agency on October 18, and marched from there to Upper Creek country. Floyd halted at the Chattahoochee River to build Fort Mitchel, and launched an attack at Autosee, where the Red Sticks inflicted such losses on him, he was compelled to retreat back to Fort Mitchel. When he again advanced in January 1813, he was defeated on Calee Creek again by the Red Sticks.

Between the first and second attack by Floyd from Georgia, the Red Sticks had received an attack from General Claiborne from Mississippi Territory. He came up the Mississippi commanding an Army of 1,000 Euro-Americans with an auxiliary of Choctaws under Lt. Pushmataha. The Cherokees numbered 135 Warriors from a Nation of 20,000. The objective of Claiborne's expedition was Ecunchate, which Americans called the "Holy Ground". It was a campsite where the Red Sticks had established on the left bank of the Alabama River, near present day Loundes County. Here the Red Sticks were gathering there with a considerable number of women and children. When the attack began, the Red Sticks

stood their ground until the women and children had crossed the River to safety, then scattered into the neighboring swamps. The expeditions of Floyd and Claiborne had been forays, which, because of their speedy withdrawals encouraged rather than damaged the Red Sticks.

The penetration of Creek Territory by Andrew Jackson from Tennessee was aimed at conquest. Jackson's Army included six hundred Cherokees organized into 19 companies, 13 of which were commanded by half-breed Euro-Americans.

No amount of rhetoric can disprove the fact that Jackson, although leading an overwhelming force of well armed and equipped Army against a foe reduced to dependence on bows and arrows, was twice beaten back by the Red Sticks. Beginning in January of 1814, Jackson went down the Coosa River to its junction with the Tallapoosa before the Red Sticks checked him on Emuckfau Creek and by another attack at Hillabee, that drove him in a rout back to Fort Strother. This humiliation caused Jackson to be vicious in Treaty negotiations.

The Red Sticks were shown the increasingly important part the African-Creeks played in Creek affairs. The War's cause was a complex mixture of Cultural, Economic, Social and Diplomatic issues, and the African-Creeks who made up a large part of the Red Sticks, figured in all those issues. The Red Stick War could not last, although some Historians believe it lasted for 8 years and cost the United States 8 million dollars, because with the signing of the Fort Jackson Peace Treaty, which officially ended the War, many Creeks and African-Creeks fled to Florida and merged with the Seminoles and fought many battles there. The Treaty signers ceded 14 million acres of their former domain. The Upper Creek Towns had been destroyed and more than three thousand Creeks and African-Creeks had been killed.

The survivors who fled to Florida joined runaway slaves from neighboring Euro-American frontier settlements where they found a precious refuge in Maroon and Seminole settlements. Repeated forays into Florida by American troops could not dislodge the remaining Red Sticks. Consequently, Florida and Creeks and Seminoles never signed a Peace Treaty.

After the Red Stick War, those that did not flee to Florida were forced to move West. Between 1834 and 1837, the greatest number of Creeks and African-Creeks had made the trek West and joined Lower Creeks, already settled in the Arkansas-Vedigris River Valley. The Upper Creeks, led by Opothleyhola, settled further South, primarily along the branches of the Canadian River, separated from the Lower Creeks by about 40 miles.

When the Civil War was forming, the sectional split between the North and South was not primarily about Slavery. It was about Economic Power and control and who held it. Slavery was the issue that stood in the way of the newly industrialized North, who wanted wage employment. Wage employment would give workers money to purchase what they produced. Because of the White Supremacy Doctrine, they couldn't enslave Euro-Americans, which gave the South an advantage with its free slave labor. The sectional split translated into a "Civil Conflict" in the Creek Nation that had to do more with the Red Stick War Treaty and anti-Treaty factions that arose during the Treaty signers in the Lower Creek Towns, but also with Slavery. The African-Creeks and Africans found themselves at the center of

the conflict just as they had during the Red Stick War. Slavery and slave property precipitated the first clashes in Creek Country, and Creek Confederate sympathizers used the opportunity to exert control over Creek affairs, which stretched tensions to the breaking point. The Civil War it launched in the Creek Nation caught both Civilian and Soldiers in the stream of destruction that, proportionally, destroyed lives and property and created more refugees than in Confederate and Union States.

Confederates were worried that the Union would use Indian Territory as a resource, a resource they saw as extremely important. Accordingly, they began a campaign to convince the Creeks and other Tribes to put Black people under close supervision and ultimately to side with the Confederacy. There were some Confederate sympathizers among Creeks and the first act of the move towards alliance with the Confederacy was to enact a series of harsh laws designed to bring African-Creeks and Africans under close control. The new laws instructed all Free Africans to select a Master by March 10, 1861, or face being sold to the highest bidder. Free Blacks were told to dispose of all property before their return to slavery. Violations of the Codes carried severe penalties for anyone aiding them to circumvent the law. Tribal Officers were given authority to enforce the new codes. However, African-Creeks and Africans in the Tribal Nation exercised an option few Africans anywhere had in 1861. They took up arms.

At first, the majority of Creeks opposed the new laws, mostly Upper Creek Towns by merely separating themselves from Pro-Confederate factions, declaring neutrality and gathering in a camp on Chief Opothleyhola's land at the headquarters of the Deep Fork of the Canadian River. This was traditional Creek Cultural action. By withdrawing, other Creeks would respect their actions. But not Confederates. Either you were with them or against them. The Creeks had hoped to remain neutral, however, the possibility of maintaining that position, surrounded by Confederate Regiments mustered for War, was too dangerous.

Opothleyahola reached out to forge an alliance with African Creeks and Free Blacks, Creeks, Seminoles and Runaway Slaves. He sent messages into Slave settlements and Free enclaves throughout the Creek and Seminole Country, bearing promises of freedom to anyone who joined Him. In His role as Emancipator, He found willing allies among African Creeks who were faced with slavery and the loss of the freedom they knew. Those who received His message needed little convincing. They left wherever they were and brought what livestock they could. As many as five hundred African Creeks and African Seminoles and an estimated 5,000 Creek Indians and Indians from other Tribes collected at Opothleyahola's Camp between August and November 1861.

On August 15, Opothlayahola wrote to President Lincoln for help, reminding Him that in the Treaty, the Government had promised,

"Should we be injured by anyone, you would come with your Soldiers and punish them. But now the Wolf has come. Men who are strangers to our soil. Our children are frightened and their Mother's cannot sleep for fear. I well rember the Treaty. My ears are open, and my memory is good."

As hostilities grew, Opothleyhola and the Loyal Creeks rebuffed further entreaties for negotiations, insisting their intentions were peaceful.. Joseph Vann went to Opothleyahola with an offer of amnesty for all Creeks under arms in the Confederate States and that all fugitive slaves must be given up. The offer was rejected

The following week an Arkansas Border Newspaper reported that more than six hundred fugitive slaves from all Tribes in the Indian Territory and neighboring States had fled to the protection of "Old Gouge", the insurgent Chief. The same story said War was on the way in the form of a Texas Troop Regiment due to arrive on the scene in a few days.

"Negroes are fleeing to Him (Opothleyahola) from all quarters—not less than 150 have left within the last three days—this state of affairs cannot long exist here without seriously affecting your country—therefore, they should be put down immediately."

D.N. McIntosh, Commander of the First Confederate Creek Regiment.

The Texas Fourth Calvary crossed the Red River and headed into Indian Territory on the Second of October. On the way to a Camp at North Fork, they received a report of groups of Loyal loyal to Opothleyahola in the area and readied themselves for battle. At Round Mountain, the Loyal Creeks led the pursuing Confederate Texans into an ambush as darkness fell on November 19th, then slipped away into the night to join the women and children hidden in caves.

A combined force of Confederate Indians and Texans attacked the Creek Party as they left for Kansas. There was anger and alarm over the number of Free Blacks, Slaves and African-Creeks fleeing with Opothleyahola. For various compelling reasons, African-Creeks, Free and Slave, made alliances with Opothleyahola, whether it was the promise of Freedom extended over years before Lincoln's limited Emancipation Plan, or to defend a certain kind of Freedom already experienced by African-Creeks who were actively resisting their enslavement in the most convincing ways available to them, they spoke with their feet. They also took up arms, becoming the first African people in America to organize armed resistance to the Confederacy.

On December 5, a Confederate Cherokee Scouting Party came upon a group of armed African-Creeks and Creek Indians. The Cherokee Scouts, outnumbered and outgunned, withdrew rather than confront them.

At the Battle of Chustenahlau on December 25, fought near present day Tulia, the Creek Party was overwhelmed and the Confederates captured the women and children and the bulk of the livestock and provisions carried by the refugees. Those who managed to escape made it to Kansas without food, adequate clothing, shoes or shelter in a freezing winter storm. Thirty-five hundred Creeks and two thousand others from different Tribes eventually reached their destination.

While the Indian Office in Kansas were going to provide food barely fit to eat, it did not provide subsistence for the Blacks among the refugees. However, African-Creeks got subsistence for their Indian families. African-Creek interpreters were intimately tied into the supply and subsistence system because Indian Agents needed interpreters. African-Creek interpreters help compile the list of refugees and their families for the issuing Agents and they were on hand to see that the subsistence was fairly distributed. African-Creek interpreters were also in demand to help provide medical

services. The Doctor, A. V. Coffin, said it was necessary to leave medicine with the interpreters to administer because the Indians would trust no one else.

In April, the War Department granted the Indian Office authority to raise two Indian Regiments.. When the First Indian Regiment was officially mustered into the Federal Army in May of 1862, twenty-five African-Creeks were in the Regiment. This was the first African-Creek soldiers officially mustered into the Union Army during the Civil War. The First Indian comprised 10 companies, the minimum needed in a Regiment. Creek Indians served as Officers in seven companies, including Tucabach Hacho, Opothleyahola's nephew, and Tulsey-Fixico, Helick Tustanuggee and Billy Bowlegs, War leader in the Second and Third Seminole Wars, led the two Seminole Companies in the unit, and Keytene Uche, or Little Captain, led the Company of Yuchi Indians.

Though their numbers were few at the early stages, African-Creeks in the First Indian were an essential element in the triracial unit. African-Creeks served as interpreters, Soldiers, and provided a Cultural bridge between Creek Soldiers, who spoke no English and the Euro-American Officers in the unit. Their duties went beyond merely translating orders, they served as negotiators, Clerks, Orderlies, modern medicine men and Scouts.

The newly formed Union Expedition was to clear the Indian Territory North of the Arkansas River of Rebel Troops so the Loyal Indian and African-Creeks, and African refugees in Kansas could return home. The Expedition headed South on June 23, 1862. Six thousand Euro-American Troops were detailed to the Expedition to aid the First Indian Home Guard Regiments. The First Indian and African allies reached the Confederate at Locus Grove on July 3, 1862. They made a surprise attack on a Rebel encampment just outside the Hamlet of Locus Grove. The action captured Cherokee Confederate General Stand Waddie's entire Supply Train, killing an estimated 50 Rebels and capturing 113, including the Confederate Train Commander, Col. J.J. Clarkson. The Union Troops declined to support the First Indian attack because they felt the element of surprise had been lost after Col. Weer, in a supposedly drunken stupor, careened noisily out into the open Prairie beneath the enemy camp in His Ambulance, effectively warning the enemy while the Troops were forming for the attack. The next day, however, the Union Troops claimed credit for the victory, plundered the captured supplies and later tried to blame the Indians for their misdeeds.

Jacob Perryman, John Perryman, Hector Perryman, Pompey Perryman, were all members of the First and Second Indian Home Guard. In subsequent battles at Cabin Creek, Prairie Grove, Cone Hill, and Mayville, Creeks and African-Creeks, African fugitives, and finally joined by Union American Troops, defeated Confederates and their Indian allies repeatedly. These actions caused many Indians in the Rebel Army to realize they had made a mistake and switched sides to the Loyalists.

At the outbreak of the American Civil War, many Lower Creek people did sign a Treaty supporting the Confederates, and officials often confused the Loyalist with the Rebels. The United States Government Required a new Treaty with the Indian Nations in 1866 to define Peace after the War. The New Treaty of 1866, Article II required the end of Slavery and to accept the necessary Justice and Humanity of Lincoln's Emancipation Proclamation. However, Opothleyahola had issued His Proclamation and

accepted African-Creeks and other Free Africans, and African Slaves as comrades in arms in August of 1861.

ARTICLE II OF THE 1866 treaty SAYS;

"The people of African descent in the Nations and their descendants, and such others of the same race who shall be permitted to settle among them, shall have the right to occupy and possess portions of the land as may be set aside for their use. The laws of said Nation shall be equally binding upon all persons, of whatever race, coming hereon."

African-Creeks and other African Soldiers in the First and Second Indian Colored Units played a vital role in the Civil War in the Indian Territory, Arkansas, and Mississippi, though their contributions were seldom recognized or rewarded. The War tested the alliances and the alliance survived to play an important role in Creek Nation Politics in the Post-War era. Under the 1866 Treaty, African-Creeks secured equal Political, Economic, and Social rights in the Creek Nation, which included an equal share of all Tribal Funds and Annuity Payments. The Treaty also granted African-Creeks full rights to the soil.

Eric Foner wrote;

"Alone among the Four million Emancipated African people, the African-Creek and the Seminole Freedmen in the Indian Territory, actually received 'Forty acres and a Mule'.

African-Creeks also participated fully and freely in the Political life of the Creek Nation during those years, as Creeks struggled to establish a Constitutional Government patterned after the American Institution, while retaining Traditional Creek Political Organization. On August 4th, 1866, showing that ARTICLE II of the aborted 1863 Treaty was no fluke, Loyal Creeks passed a law that gave African-Creeks Full Citizenship Rights. African-Creeks later designated August 4th, as the date for their Annual Emancipation Day Celebration.

Creek Agent J.W. Dunn reported that;

"The Creeks were in advance of all States, not only in Emancipating their slaves, but adopting them into their Nation with Full and Equal Rights with themselves."

African-Creek full rights to the soil proved to be the foundation of a stable community life for them, and contrasted sharply with the fate of the virtually landless Freed people in the Southern States.

Compared to Euro-American communities who used a 'Fee Simple' Title to a certain section of land, the Creek withheld their Tribal Land in Common with a 'Use-Title' arrangement. This gave an individual, whatever Creek Land He cultivated, remained under the individual's control. They could sell improvements on that certain piece of Land, and pass those improvements on to their descendants. In other words, a House, Corn Crib, Fencing, or even Orchards were alienable, but not the land itself.

A united Creek Council adopted a Constitution in October 1867. They formed three branches of Government, roughly resembling the United States Federal system. The Executive Branch consisted of a Principal and Second Chief elected every four years. The Legislative Branch, called the National Council, comprised Two Houses; The House of Kings was the Upper Legislative Body, and the House of Warriors, the Lower House. The Lower House Representatives to the National Council were chosen by the eligible Male voters Eighteen or older. Forty-Seven Tribal Towns, which now included three African-Creek Towns, Arkansas, North Fork, and Canadian, elected Representatives to the National Council. Each Town elected one member to the House of Kings and one to the House of Warriors, with an additional Warrior for every two hundred people in a Town. The Constitution also created a Judicial Branch, with a Supreme Court and District Justices, and the Principle Chief appointed Prosecuting Attorneys for each District. The voters in each District elected a Light-Horse Company, which was similar to a Sheriff's Office, consisting of a Captain and four Privates.

Since the majority of Freedmen voted in Three Towns, their votes were not scattered among the Forty-Four other Tribal Towns near which many of them had farms and businesses. The arrangement was roughly grounded in Creek Tribal ideas about Community identity and representation and was a significant Political advantage for the Freed people, especially in the House of Warriors. When the number of Representatives allotted to a District was determined by population, Arkansas, North Fork, and Canadian had a combined population of nearly two thousand, and sent as many as thirteen Representatives to the House of Warriors and three to the House of Kings in the early years of the Constitutional Government. Although there were more Indian Towns, none of them sent more than two or three Warriors to the House, and most sent only one. Thus, the Freedmen constituted an important faction in the Ninety-Six Member House of Warriors.

Sugar George, Simon Brown, Harry Island, Ned Robbins and Robert Grayson were some of the earliest African-Creek Representatives from North Fork. African-Creeks participation also included Judicial Appointments. The Council selected Monday Durant as Judge and Sugar George was elected Prosecuting Attorney for the Arkansas District. Jessie Franklin was selected by Council as one of four Supreme Court Justices after serving as a Judge for the Creek Agency Settlement, for several terms. African-Creeks formed a sizeable majority in the Arkansas District, renamed Muscogee District in 1817. The Light-Horse Officers, elected by popular vote were typically African-Creeks. African-Creeks not only maintained their level of involvement in Creek Politics through the 19th and early 20th Centuries, but also expanded their roles up until the Allotment Era.

In 1871, the United States Congress made a major change in the relationship between the Federal Government and the Tribes, when it stopped the practice of making Treaties. Senator Orville Platt added an Amendment in the Senate on April 23rd that authorized it to 'hear and determine applications of all persons who may apply to them for Citizenship'

James S. Sherman of New York insisted that the Commission be given power to do more than just 'carry out useless negotiations' and supported Platt's Amendment, which remained in the Bill that was approved on June 10, 1896.

In the late 1880s, three events forced the Creeks to consider more carefully the issue of identity, Citizenship and who was entitled to share in the Creek Commonwealth; (1) the passage of the General

Allotment Act, better known as the Dawes Act in 1887; (2) the cession of the unassigned land to the United States in 1889 paved the way for the Oklahoma Land Rush of 1889; (3) the establishment of the United States District Courts for the Indian Territory.

In the coming years, as the Creek people scrambled to save what they could in the face of Allotment, Tribal dissolution, and eventual statehood, immutable race and identity standards imposed from outside eliminated the luxury of knowing whether one was Black, Red, or white, as the racial frontier collapsed in the period of development called "Progress and Civilization".

On November 1, 1893, President Harrison appointed H.L. Dawes to what was officially designated The Commission to the Five Civilized Tribes. In 1897, Congress gave veto power over Creek legislature Acts and made Tribal Courts subject to Federal Court Jurisdiction.

The Curtis Act, named after Congressman Charles Curtis, gave the Dawes Commission authority to go ahead and use 'Whatever means necessary to carry out the Allotment Policy, even if it meant going forward without the consent of the Tribes', who were dead set against breaking up their land.

The system of recording and cataloging people's identity and descent according to standards demanded by the dominant society quantified racial abstractions with an air of finality that was in sharp contrast with the relaxed and informal methods employed by the Creeks themselves. The Dawes Commission judged Creek Citizenship practices different from the kinship based social structure of Creek Society, which had undergone severe disruptions attended by Removal, the alarming mortality and dislocation of the Civil War, the onslaught of intruders in the Post-War years, kinship relation were still the governing principle that determined legitimate citizenship for the Creeks. The Creeks loss of control of race and identity questions to the Federal Government under pressure from hundreds of thousands of Euro-American settlers pouring into Indian Territory, began the process that ended with the Oklahoma Legislature imposing Jim Crow and disenfranchisement after Statehood.

With Euro-American immigration into areas increasing in the years leading up to Statehood, there was a concerted effort among Euro-American developers to make the area of Sapulpa, Dinmore, and Holdenville, into a White Man's Country. There was even a movement to make Oklahoma into an Indian State, but it was never voted on by Congress. Instead, an organized white Democratic Statehood machine that claimed the racial high-ground and offered to share it with the Indians

American Indians are in the anomalous position of being at the same time, Citizens of the United States and Wards of the Federal Government. The net result being far from First Class Citizens. The United States Congress has adopted no less than 5,000 Laws which apply to Indians as such, and these, together with more than 2,200 Regulations imposed by the Bureau of Indian Affairs, regiment the lives of Indians from cradle to grave. Thus, it is difficult to believe the BIA, the Indian Gaming Commission, the Congress, who appropriate annual Tribal funds, and the State of Oklahoma, all invested in what goes on at the Reservation, had to recognize the steep drop in the Annual Allotment request, and did not investigate. If an investigation was launched and it was determined only African-Creeks and adopted Africans were effected, and nothing was done to correct it, then the Government of both Federal and State and its Agencies are guilty of collusion. Due to the fact that those thousands disenrolled complained, and nothing was done to remedy the situation, Plaintiff believes the dominance of Euro-Creeks and the White Supremacy Doctrine demanded ignorance.

During February 24, 1896, during the debate on the Annual Indian Appropriation Bill, Charles Curtis, Himself 1/8 Kaw Indian, proposed that Mixed-Blood children of white men and Indian women, should have the same rights and privileges to the property and Annunities of the Tribe which the mother belongs by blood, as other members of the Tribe. It was wrong and short-sighted, complained Curtis, for the Mixed-Blood was a powerful instrument in the Government's Assimilation Program. The Title of Curtis' Law was, "An Act for the protection of the people of Indian Territory and for other purposes", was a clever deception designed to give the impression that the exploitation of the Oklahoma Indians was a thing of the past. The core of Charles Curtis' most personal legislation was Tribal destruction. The devices were the unilateral abrogation of the Tribal Courts and Tribal Law, and the implementation of Federal Authority over all residents of Indian Territory, regardless of race or previous Tribal affiliation.

Between 1830 and 1860, the population of four Nations declined sharply: Cherokees by 31 percent; Choctaws by 27 percent; Chickasaws by 18 percent; and Creeks by 43 percent. At the same time, the numbers of members with Euro-American Blood increased. By the late 1880s, the Mixed-Blood Euro-Americans outnumbered the Full-Bloods.

During the early years after the Removal, Mixed-Blood Euro-American Creeks, though a minority with African-Creeks, they felt that both of those facts made them superior, fit to rule. This also meant the amount of European Blood was a positive, while the amount of African Blood was a negative. It would be difficult today, to find a single drop of pure Creek blood in America.

Euro-American Reformers were very optimistic about Indian inclusion in American Society, especially the so-called "Five Civilized Tribes", who were considered much more advanced in the "Art of Civilization", once, that is, they were shorn of their Tribal identity and Communal Land Towns, and blessed with individual Allotments and Euro-American neighbors. The Reformers relative attitude towards African-Creeks, however, left African-Creeks with a double burden, their Cultural outlook embraced Indian identity, and their skin color marked them as part of the "Negro Problem", which the Reformers deemed unsuitable for inclusion.

The accuracy of Tribal makeup has never been a major issue, but in 1988, the Federal Government passed the Indian Gaming Regulatory Act, allowing the Seminole Nation to establish the First Indian Casino. In anticipation of Tribal Revenue, the prospect of sharing it among a huge segment of the African-Indian Tribal Nation, old fashioned American greed raised its ugly head and steps were taken to eliminate the only people it could, those less than Full-Blood, and with African Blood, which was easier done than eliminating those with Euro-American Blood.

The Creek Tribal Council, along with other Tribal Nations, copied the Seminoles because they too were blinded by Casino Revenue, and set about eliminating its African-Indian members so they could accumulate more personal profits. The Seminoles removed James Billy, the establisher of the Casinos, from the Tribe, along with all other African-Seminoles.

Casino wealth is a gift, not a right, and it rests on Broken Treaties and violated Constitutional Laws. The Creek Nation is not a Country Club where membership is determined by one's Bank Account. The Creek Nation is a family of Blood-Connected members, and it is illegal to discriminate based on Race.

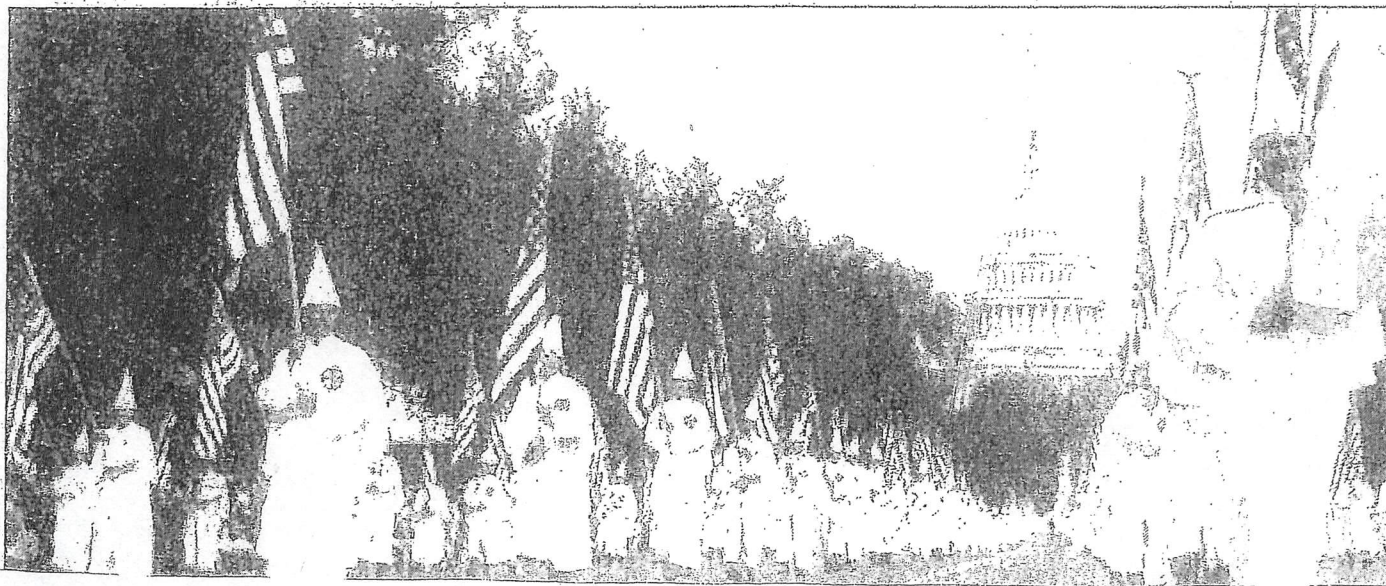
Indian Agent John Q. Tufts, speaking on African-Creeks with kinship ties who were rejected for membership, said;

"If the citizenship applicants had been half-white, instead of half-Black, Citizenship would have freely given."

Though the United States is not supposed to be a One-Party country, in reality, the presence of the White Supremacy Doctrine infecting both Republican and Democratic Parties, both have exercised a bipartisan monopoly on the Political life of the Nation. Their domestic and Foreign Policies generally differ only as to emphasis, and this more with a view to partisan advantage than to National welfare.

In the History of this country after the Civil War, when Republicans tried to secure African Rights against Southern Democratic Resistance, the Klu Klux Klan was formed. The reign of terror continued throughout the South for many years, The Southern Democratic Party required its supporters to endorse whatever candidate was chosen. It was only after President Lyndon Johnson signed into law the Civil Rights Bill of 1965, that Democrats abandoned the Democratic Party, and moved enmasse into the Republican Party. It has been said the new Republican Party do not discriminate, they simply do not care about people. Consequently, one could find more fairness and equality on paper, than in the Congress of the United States.

To deny a person or persons knowledge, a job or home, or to share in a groups financial prosperity is an act of violence of the First Magnitude. The Klan was a deliberately conceived Terrorist Organization, organized and offered by the old landed gentry, to overthrow the popular Democracy, restore Plutocracy and return African people once more to a condition of hapless servitude. All this, thanks to the National lassitude, it accomplished especially in the Tribal Nations. .



The fact that the Government was under the influence of the Klan is seen during the Presidency of Woodrow Wilson, who was inducted into the Klan in a ceremony in the Green Room of the White House. The President of the United States pledged to obey the dictates of the Imperial Wizard, and He, the President, in a token of esteem, gave the Imperial Wizard a War Department License Plate for His Limosine. Following Klan dictates, the President terminated the employment of all African-Americans in the White House. The preceding illustration shows the Klan marching in Washington D.C. in 1925. For generations, there has been a law on the books (Section 51, Title 18. Chapter 3, United States Code) which provides that ;

"If two or more persons conspire to injure, oppress, threaten, or intimidate any citizen in the exercise or enjoyment of any Laws of the United States, or because of His having exercised the same, or if two or more persons go in disguise on the Highway, or on the premises of another, with intent to prevent or hinder His free exercise or enjoyment of any right or privilege so secured, that law provides for up to Ten years imprisonment." Has been a virtual dead letter, presumably, because bipartisan Klansmen sympathizers agreement not to enforce it. It is to be noted that the Constitution and all others written laws, concerning Race, are written on paper and have no power of their own. Those words mean nothing unless the Congress and other Agencies choose to enforce them.

An example is the Congressional Law of 1866; "All Citizens of the United States shall have the same Rights, in every State and Territory, as is enjoyed by White Citizens thereof to inherit, purchase, lease, sell, hold, and convey, Real and Personal property." It was repealed in 1884.

With the election of our newest President, racist factions have made new and stronger appearances all across America. U.S. Rep. Steve King of Iowa said He didn't understand why "White Supremacy and White Nationalism" have become offensive terms. While His remarks have been beneath the dignity of the Party of Lincoln and the United States of America, in effect it illustrates that the Klan sympathizers did not disappear with Woodrow Wilson. "Here yesterday-Here forever." Klan calling card."

While it has been determined by the Court that an Indian Tribe has the Right to Self-Government in "Wheeler v The United States Department of the Interior, 811 F. 2nd 549 (10th Cir. 1987) and the Right to determine its own membership. Although the Court defers to the Tribal Nation to determine its members, and I support that view, if it were valid. I call the validity of that view into question because it is untrue. While the North won the Civil War physically, The South won it Ideologically.

Before the Dawes Commission established the Rules for determining Allotment, the United States Congress, saddled as it was with Klan sympathizers, sought to minimize any advantages African-Creeks may have gained by instituting an arbitrary "By-Blood" standard. Because DNA testing did not exist then, the Muskogee Creek way of determining members of the Tribe was scrapped because it allowed too many African-Creeks, and in particular, too many adopted Africans to participate in the Allotment. The Tribal Nation had to submit to a system that left many family members, and especially those adopted into the Tribal Nation, excluded, while Euro-American Creeks were accepted.

Further, Reverend William Barrow wrote in 1889; "A new people, or race as distinct as were the Aryans, or Romans, or Scandinavians, are especially evident in Indian Territory, where no white man can reside unless He has an Indian wife, and thereby has secured the title "Squaw Man". Here, it seems the Mixed-Blood whites are taking over. '

Further, on March 23, 1901, Plaintiff's Paternal Grandmother, Mary Roberson, applied for an Allotment for Herself and Her infant son Amos, Plaintiff's father. (A) On September 30, 1939, Plaintiff was born in an Indian Hospital in Okmulgee Oklahoma, named after Plaintiff's Paternal Grandfather. (B) Plaintiff lived on the Reservation until age ten, at which time He was relocated to Los Angeles California. At age 18, Plaintiff enrolled in a Technical Art School in Pasadena California. After Graduation, Plaintiff worked for over 20 years in the Technical Art Field, as a Electro-Mechanical Draftsman and Technical Illustrator. In 1979 Plaintiff enrolled in San Jose State University to pursue a Degree in Business, and was approached by a female Administrator, who inquired about Plaintiff' Indian ancestry. Plaintiff was informed that the Tribal Nation paid for tuition and living expenses, and would pay off any Student Loans. The Administrator filed a request for my enrollment, based upon the Tribal Identification numbers of Plaintiff's Grandmother and Father. After several months, Plaintiff received an Acceptance letter, (C) and identification Cards establishing Plaintiff as a member of the Muskogee -Creek Nation. While attending classes, on March 17, 1983, Plaintiff received a letter from Mr. Dan D. Burgee, Scholarship Officer. (D)

Years later, Plaintiff got married and intended to enroll my two children into the Tribal Nation. Plaintiff received a letter from Mr. Kevin Bearquiver. (E) Mr. Bearquiver stated that Plaintiff CDIB card stated Plaintiff was 3/8 Creek Blood, which was less than the 1/2 required for membership, which was the new standard which Plaintiff had not been previously been informed about, possibly preventing any resistance or Court challenges. At first, Plaintiff did not know the Indian Casino's. That information followed the information about the Indian Trust Settlement. Plaintiff applied and after a series of letters, Plaintiff was informed; "That you are an individual Indian beneficiary, however, the documentation you provided do not show you had an open IIM Account at any time between 1985 to September 30, 2000, or owned Trust Land in restricted status as of September 30, 2000."

That ended Plaintiff's quest to participate in the Indian Trust Settlement, which Plaintiff believed was to narrow in focus, because of the so-called "Electronic-Era" as a cut-off date to reach a settlement, by which time only a small percentage of the Indian population would benefit, leaving many more without relief. While Plaintiff saw no relief pursuing the Trust Settlement, since the Court had already ruled on it, and were unlikely to go back and re-do . Doing Plaintiff's research, the existence of the Six Creek Casino's was discovered. Along with that Discovery was the fact of the disenfranchisement of thousands of African-Creeks like Plaintiff.

It was discovered that the concept of High Stake Casino's was started by Chief James E. Billy on the Seminole Indian Reservation in Flouda. In 1979, Billie was elected Chairman of the Seminole Tribal Council. At which time the Seminoles ran only Class II Gaming Ventures, which means Bingo slots and Poker, but no other table games or Vegas Slots. In 1988, the Federal Government passed the Indian Gaming Regulatory Act. Before Billie became the Council Chairman, the Seminole's had an Annual budget of \$11,000. Today, their budget exceeds \$1.5 Billion, which enabled them to buy the Hard Rock International Chain in 2006 from the Rank Group PLC for \$965 million. The Seminole's now